

FILE COPY

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND
LAND SURVEYORS

IN THE MATTER OF THE APPLICATION	:	
FOR A PERMIT AS A DESIGNER OF	:	
PLUMBING SYSTEMS OF	:	FINAL DECISION
	:	AND ORDER
RALPH A. LOEFFLER,	:	
APPLICANT.	:	

The parties to this proceeding for the purposes of Wis. Stats.
sec. 227.53 are:

Ralph A. Loeffler
2432 Ellis Street
Stevens Point, WI 54481

Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
1400 East Washington Avenue, Room 290
P.O. Box 8935
Madison, WI 53708

The rights of a party aggrieved by this Decision to petition the Board
for rehearing and to petition for judicial review are set forth on the
attached "Notice of Appeal Information."

A Class 1 proceeding as defined by Wis. Stats. sec. 227.01 was conducted
in the above-captioned matter on February 15, 1988, at 1400 East Washington
Avenue, Madison, Wisconsin. The purpose of the proceeding was to provide the
applicant a hearing on the denial by the Designers Section of applicant's
application for a permit for the design of plumbing systems. Applicant
appeared before the Designers Section without legal counsel.

Based upon the record herein, the Designers Section makes the following
Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Ralph A. Loeffler (Applicant), 2432 Ellis Street, Stevens Point,
Wisconsin, applied to the Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors (Board) for a permit to design
plumbing systems by his application dated April 4, 1988. Applicant's
application indicates eligibility based on his holding a Wisconsin Master
Plumber license.

2. Under Wis. Stats. sec. 443.07(4), an unrestricted master plumber
license issued under ch. 145, Stats., shall be considered equivalent to the
required work experience and satisfactory completion of a written examination
in the field of plumbing systems, and one holding an unrestricted master
plumbing license is thereby eligible for a permit to design plumbing systems.

3. Applicant holds a restricted master plumber license #MPRS03357 from the Department of Industry, Labor and Human relations, Bureau of Plumbing (DILHR), which authorizes applicant to "install private and domestic sewage disposal systems and building sewers (sanitary and storm); water services. Installation work is allowed outside of buildings and to immediate inside perimeter wall of building. May not install plumbing inside of buildings."

4. Applicant did not apply and does not qualify for licensure under either Wis. Stats. sec. 443.07(1)(a), requiring examination and 8 years experience, or under Wis. Stats. sec. 443.07(1)(b), requiring 12 years experience by a person at least 35 years of age.

CONCLUSIONS OF LAW

1. The Examining Board of Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction in this matter pursuant to Wis. Stats. sec. 443.07.

2. Applicant does not hold an unrestricted master plumber license issued under Wis. Stats. ch. 145, and he therefore is not eligible for a permit to design plumbing systems under Wis. Stats. sec. 443.07(4).

ORDER

NOW, THEREFORE, IT IS ORDERED that the application of Ralph A. Loeffler for a permit to design plumbing systems be, and hereby is, denied.

EXPLANATION

Wis. Stats. sec. 443.07(4) was created (as sec. 443.01(1)) by Ch. 446, Laws of 1969, and provides that one licensed by DILHR as a Wisconsin Master Plumber qualifies for a permit to design plumbing systems issued by the Board. Consistently since the creation of that section, the Board has construed the provision to require that applicants for plumbing design permits applying as Wisconsin Master Plumbers hold unrestricted master plumber licenses issued pursuant to Wis. Stats. sec. 145.07, and that the master plumber (restricted) license issued under Wis. Stats. sec. 145.14 does not qualify an applicant for a permit to design plumbing systems. The basis for the Board's interpretation of its statute is as follows:

Persons holding master plumbing licenses (restricted) from DILHR are restricted by Wis. Stats. sec. 145.14(2) to performing work falling into two classifications of plumbing services, defined as "sewer services" and "appliances, equipment or devices," and such persons may perform only the work falling within those classifications. Persons holding an unrestricted master plumbers license, on the other hand, may engage in the planning, superintending and installation of all plumbing as defined by Wis. Stats. sec. 145.01(10).

In 60 OAG 37 (1971), the Wisconsin Attorney General issued an opinion on the eligibility of persons holding restricted licenses for designer permits, and on the question whether the Board could issue restricted permits to design plumbing systems to persons holding unrestricted master plumber licenses. The Attorney General concluded as follows:

"By virtue of the State Board of Health, the master plumber is deemed competent in the entire field of practice allowed by ch. 145, Stats. In my opinion the legislature did not intend [the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors] to limit licensed master plumbers to subfields in the design of plumbing systems.

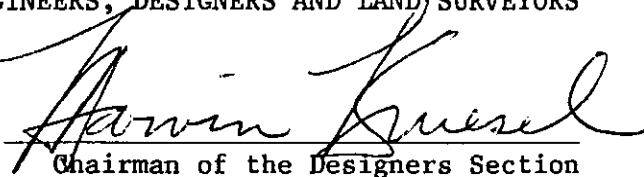
"The designer permit statute, however, does not deal expressly with the separate statutory categories of master plumber (restricted) or temporary master plumber. It cannot be reasonably concluded that sec. 443.01(16)(c), Stats. [now 443.07(4)], would entitle such licensees to permits for the entire field of design of plumbing systems. It is left for the discretion of the examining board, as it deems advisable, to establish appropriate subfields and to determine competence of applicants for any such limited permits."

The Board entirely agrees with the Attorney General's interpretation. Unlike DILHR, this Board does not issue restricted permits for the design of plumbing systems. It is conceivable that the Board could decide by rule to create various classes of limited engineering design permits. Until it does so, however, an applicant for a permit to design plumbing systems must establish his or her ability to competently perform in the entire field, either by meeting the established experience and examination requirements, or by holding an unrestricted master plumber license from DILHR.

Dated at Madison, Wisconsin this 2nd ^{March} day of ~~February~~, 1989.

STATE OF WISCONSIN
EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

By


Chairman of the Designers Section

WRA:dms
BDLS-420

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Examining Board of Architects, Professional Engineers, Designers and Land Surveyors.

The date of mailing of this decision is March 7, 1989.

WLD:dms
886-490